IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

**THE HONOURABLE MR. JUSTICE K.T.SANKARAN**

WEDNESDAY, THE 21ST MARCH 2007 / 30TH PHALGUNA 1928

**OP.No. 29409 of 1999(A)**
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PETITIONER:
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P. OMANA, D/O. MANNAN, AGED 46 YEARS,
NEEDLE WORK TEACHER, MOWERI MOPLA L.P.SCHOOL,
P.O. KOTTAYAM (MALABAR), (VIA) KUTHUPARAMBA,
KANNUR DISTRICT.

BY ADV. SRI.C.KRISHNAN
ADV. SRI.A.MOHAMED MUSTAQUE

RESPONDENT:
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STATE OF KERALA, REPRESENTED BY THE SECRETARY
TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SHRI K.G. BHASKARAN.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 21/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**OP.No. 29409 of 1999(A)**

**ORDER ON C.M.P.NO. 49969 OF 1999 IN O.P.NO. 29409 OF 1999**

DISMISSED.

21.03.2007 SD/- K.T. SANKARAN, JUDGE.

**APPENDIX**

**PETITIONER'S EXHIBITS:**

| | | |
|---|---|---|
| EXT. P1 | : | TRUE COPY OF THE G.O. (MS) 122/87/G.EDN. DATED 06.06.1987. |
| EXT. P2 | : | TRUE COPY OF THE G.O.(Rt. ) 3491/96/G.Edn. DATED 26.10.1996 -ORDER SANCTIONING ARREARS OF PAY AND ALL0WANCES W.E.F. THE ACADEMIC YEAR 1985-86. |
| EXT.P3 | : | TRUE COPY OF THE G.O.(MS)253/98/G.Edn. DATED 01.07. 1998 – APPROVAL OF APPOINTMENT OF NEEDLE WORK TEACHERS IN AIDED SCHOOLS W.E.F. THE ACADEMIC YEAR 1985-86. |
| EXT.P4 | : | TRUE COPY OF THE JUDGMENT DATED 26.06.1998 SUBMITTED BY THE PETITIONER. |
| EXT.P5 | : | TRUE COPY OF THE G.O.(Rt) 37/1998/G.Edn. DATED 02.01.1999 - THE APPOINTMENT OF THE PETITIONER WAS APPROVED FROM THE ACADEMIC YEAR 1985-86. |
| EXT. P6 | : | TRUE COPY OF THE REGISTERED LAWYER NOTICE ISSUED BY THE PETITIONER. |
| EXT. P7 | : | TRUE COPY OF THE POSTAL ACKNOWLEDGEMENT PRODUCED BY THE PETITIONER. |

/TRUE COPY/

P.A. TO JUDGE.

lk

**K.T. SANKARAN, J.**

**.....**

**O.P. No. 29409 OF 1999**

**.....**

**Dated this the 21st March , 2007**

**J U D G M E N T**

Petitioner was appointed as Needle Work Teacher with effect from 27.06.1979 in Moweri Mopla L.P. School under clubbing arrangement with Sankaranellur L.P. School and Kottayam (Malabar) L.P. School. It is stated that since there was a prohibition existing at that time for approval of appointment of Needle Work Teachers appointed since 28.06.1975, the appointment of the petitioner and other similarly placed Needle Work Teachers was not approved by the Department. However, as per G.O (MS) 119/85/G.Edn. Dated 13.06.1985, the Government approved appointment of 96 Needle Work Teachers in the Aided L.P. Schools who were appointed during the period from 28.06.1975 to 31.12.1981. Complaints were raised by certain similarly placed teachers whose appointments were not approved . Later Ext. P1 order was issued by the Government on 06.06.1987 approving appointment of 37 Needle Work Teachers . It is stated in Ext.P1 thus:

> *"Their appointments will only be approved from the academic year 1986-87, subject to the condition that no arrears will be paid to them on this account". Petitioner is Sl. No.7 in the Appendix attached to Ext. P1*.

2. The contention of the petitioner was that she is entitled to get her appointment regularised with effect from 1985-86. Service of the petitioner was regularised only from the academic year 1986-87 onwards. It is stated that one P.V. Nanikutty who was Sl.No.9 in Ext.P1 was regularised with effect from academic year 1985-86 as per Government Order dated 26.10.1996 and she was granted all service benefits including arrears of pay and allowances. That Government Order is produced as Ext. P2. It is also stated that one Vimalakumari, who was Sl.No.4 in Ext.P1 was given the same benefits as were given to Nanikutty as per Ext.P3 order dated 01.07.1998. Petitioner contends that though she is similarly placed as Nanikutty and Vimalakumari in all respects, she was denied the benefit of regularisation and arrears of pay and allowances with effect from the academic year 1985-86. Petitioner approached this Court in O.P. 11898 of 1998 pointing out her grievances. As per Ext.P4 judgment , this Court directed the Government to consider the representation submitted by the petitioner and to pass appropriate orders . Subsequently, Ext. P5 order was passed by the Government

granting benefit of regularisation with effect from 1985-86 to the petitioner subject to the condition that she would not be entitled for any arrears on this account. Petitioner challenges that part of Ext.P5 order in this O.P. , by which she is denied the arrears of pay and allowances with effect from the beginning of the academic year 1985-86.

3. The contention of the petitioner is that though arrears of pay and allowances were granted to Nanikutty and Vimalakumari , the same benefit was not extended to the petitioner . Petitioner was singled out and was treated differently.

4. A counter affidavit is filed by the respondent. It is stated in paragraph '3' therein thus:

> *"None of the grounds raised in the O.P. is sustainable. As per G.O.(MS) 119/85/G.Edn dt. 13.06.1985. Government issued orders approving the appointment of 96 Needle Work Teachers who were appointed by Managers overlooking the orders of Government banning appointment of specialist teachers as a special case. Later Government examined the case of petitioner and issued orders including her name also in the list of teachers whose appointments were approved as per G.O.(MS) 119/85/G.Edn. dt. 13.06.1985 subject to the condition that they will not be entitled for any arrears as per G.O.(MS) 122/87/G. Edn. dt. 06.06.1987."*

It is also stated in the counter affidavit that the benefit of arrears was given to Nanikutty and Vimalakumari with the concurrence of Finance

Department as per Exts. P2 and P3. In paragraph '5' of the counter affidavit, it is stated thus:

> *"If the request of Smt. Omana to sanction her arrears from 85-86 is allowed it will pave way for similar request from the other teachers whose appointments were approved on the same grounds as that of the petitioner. This will cause unnecessary and heavy burden on the State Exchequer."*

5. In facts and circumstances stated in the counter affidavit and also in view of the fact that Ext.P1 itself mentions that no arrears would be paid to the teachers whose names are mentioned in the Appendix to Ext.P1 (petitioner being Sl.No.7 therein), I am not inclined to grant the relief sought for in this Original Petition at this distance of time. Ext. P1 is dated 06.06.1987. The petitioner has not chosen to challenge Ext. P1 within a reasonable time. On the other hand, she was satisfied with making representations to the Government . The Government considered the request made by the petitioner and Ext. P5 order was passed in her favour approving her appointment from 1985-86 onwards. However, the Government was not inclined to grant arrears of pay and allowances evidently for the reasons mentioned in the counter affidavit . If the conditions stipulated in Ext. P1 order dated 06.06.1987 that the teachers

mentioned in Appedix to Ext. P1 would not be entitled to arrears were to be modified, it would result in serious prejudice to the Government. By Ext.P5 order, substantial justice has been meted out in favour of the petitioner . Rejection of her request to grant her arrears of pay and allowances, in the facts and circumstances of the case, was reasonable and just. Counsel for the petitioner contended that the petitioner is entitled to the same benefit if the other teachers mentioned in Ext. P1 were to be given the arrears of pay and allowances. If the petitioner points out before Government any such instances other than that of Nanikutty and Vimalakumari, needless to say that the petitioner will also be entitled to the same relief.

With the observations mentioned above, the Original Petition is dismissed.

**K.T. SANKARAN,**
**JUDGE**.

**lk**

**K.T. SANKARAN, J.**

**.....**

**O.P. No. 29409 OF 1999**

**.....**

**Dated this the 21st March, 2007**

**J U D G M E N T**